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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

PETER DELVECCHIA, *et al.*,

Plaintiffs,

vs.

FRONTIER AIRLINES, INC., *et al.*,

Defendants.

Case No: 2:19-CV-01322-KJD-DJA

**DECLARATION OF LEO S. WOLPERT
IN SUPPORT OF MOTION FOR RELIEF
UNDER LR IC 3-1(c)**

1 I, LEO S. WOLPERT, hereby declare as follows:

2 1. I am an attorney admitted to practice law in Nevada and before this Court.

3 2. I am co-counsel for Plaintiffs Peter DelVecchia individually and Peter DelVecchia as
4 next friend of A. D., a minor (“A.D.”) in this matter.

5 3. I have personal knowledge of the matters set forth below and am competent to testify
6 about them.

7 4. Plaintiffs’ response to Defendants’ Motion for Summary Judgment (ECF No. 266) was
8 (presumptively) due on November 30, 2023 per Plaintiffs’ (pending) Motion to Extend the MSJ
9 Response Deadline. (ECF No. 270).

10 5. At approximately 9:15 pm on November 30, 2023, I created the finalized PDF
11 document of Plaintiffs’ response and attempted to log into the Court’s e-filing system, located at
12 <https://ecf.nvd.uscourts.gov/> to file the response and its corresponding exhibits.

13 6. Despite repeated attempts using both my desktop and laptop via McLetchie Law’s
14 internet connection (which was otherwise operating normally), the Court’s e-filing website failed to
15 load. I could not even reach the login prompt to enter my PACER username and password.

16 7. I also attempted to load the Court’s e-filing system on my cellular phone, which was
17 connected to the internet via AT&T 5G (which was also operating normally). The website failed to
18 load on that device as well.

19 8. This led me to believe that there was an e-filing system outage.

20 9. I was not aware of any scheduled maintenance or down time for the Court’s e-filing
21 system.

22 10. At approximately 9:50 pm I attempted to contact the Court to notify it that e-filing was
23 down via the web form located at <https://www.nvd.uscourts.gov/> .

24 11. However, the web form did not deliver the message, instead displaying an error
25 message and prompting me to “try again later.” A true and correct screenshot of this is attached as
26 **Exhibit 1.**

27 12. I continued attempting to log into the Court’s e-filing system.

28 13. I took screenshot of one of these failed attempts to reach the website at approximately

1 10:25 pm, which is attached as **Exhibit 2**.

2 14. At approximately 10:45 pm, I returned home from the office, where I again attempted
3 to reach the Court's e-filing system through my home internet connection, to no avail.

4 15. I continued to attempt to reach the Court's e-filing system until approximately 11:50
5 pm, at which point I determined it would be futile to attempt to file the brief and its 30 exhibits before
6 11:59 pm.

7 16. I believe that the filing of Plaintiffs' response was made untimely because of the
8 Court's technical failure, and therefore Plaintiffs are entitled to appropriate relief under LR IC 3-1(c).

9
10 I declare under penalty of perjury and the laws of the State of Nevada that the foregoing is true and
11 correct to the best of my information, knowledge, and belief this 1st day of December, 2023:

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14 /s/ Leo S. Wolpert
15 LEO S. WOLPERT
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EXHIBIT 1

CONTACT

YOUR NAME (REQUIRED)

Leo Wolpert

YOUR EMAIL (REQUIRED)

leo@nvlitigation.com

SUBJECT

E-Filing is Down

YOUR MESSAGE

If somebody sees this, could you _please_ get it up and running so this opposition can be timely filed within the next two hours?

At the very least, this is intended to memorialize that e-filing is down right now, so that should this opposition be untimely filed I can seek relief under LR IC 3-1(c) for this technical failure.

SEND

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400 S. Virginia St.

Reno, NV 89501

(775) 686-5800

Lloyd D. George Federal Courthouse

333 Las Vegas Blvd. South

Las Vegas, NV 89101

(702) 464-5400

THERE WAS AN ERROR TRYING TO SEND YOUR MESSAGE.
PLEASE TRY AGAIN LATER.

EXHIBIT 2

Gateway Timeout

The gateway did not receive a timely response from the upstream server or application.

Apache Server at *ecf.nvd.uscourts.gov* Port 443